

Notice of Allowability

Application No.

10/701,876

Examiner

Laura Edwards

Applicant(s)

PATSALOS, LOUIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the filing of the application as of 11/5/03.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None . of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ---
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date ---
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.


LAURA EDWARDS
PRIMARY EXAMINER

Continuation of Attachment(s) 9. Other. The drawings filed as of 11/5/03 are accepted.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, drawn to an apparatus, classified in class 118, subclass 13.
- II. Claim 5, drawn to a method, classified in class 426, subclass 289.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used for a materially different process other than with food products such as cleaning materials for cleaning contact lenses.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Walker on 10/26/05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-4. Affirmation of this election must be made by applicant in replying to this Office action. Claim 5 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Alfred Walker on 10/31/05.

The application has been amended as follows:

In the claims:

In claim 1, line 4, "said food liquid" has been changed to --food liquid--.

In claim 1, lines 4-5, "said food particulate" has been changed to --food particulate--.

In claim 1, line 19, "a solid food product" has been changed to --solid food product--.

In claim 3, line 7, "said food liquid" has been changed to --food liquid--.

In claim 3, line 8, "said food particulate" has been changed to --food particulate--.

In claim 3, page 22, line 6, "a solid food product" has been changed to --solid food product--.

Claim 5 has been cancelled.

Page 24, including lines 1-13, has been cancelled.

Claim 5 has been cancelled without prejudice to Applicant's right to file a divisional application.

The following is an examiner's statement of reasons for allowance:

Claims 1 and 2 are allowable because there is no teaching or suggestion in the prior art of a breeding machine for coating a food product with a mixture of food particulate and a food liquid comprising the combination of a pair of trays mounted side by side, one of said trays containing food liquid and one of said trays containing food particulate; a slidable and rotatable vertical member passing between said trays, said member being slidable between a resting position and a lowered position; a grate extending from and mounted on one side of said member, said grate being located in the resting position of said member above said trays; means for rotating axially said member between a first position where said grate is above one of said trays and a second position where said grate is above a second of said trays; means on said grate to support a solid food product to be breaded with a mixture of said food liquid and said food particulate; means for depressing and retracting said member causing said grate with solid food product mounted thereon to dip said solid food product into one of said trays for being coated with said food liquid or food particulate, said member being rotatable to place said grate above the other of said trays allowing said grate to be lowered into the other of said trays for coating the food product with the other food liquid or food particulate; and means to rotate said grate 180 degrees to allow another side of said food product to be coated in turn by said food liquid and said food particulate.

Claims 3 and 4 are allowable because there is no teaching or suggestion in the prior art of a breeding machine for coating a food product with a mixture of food particulate and a food liquid comprising the combination of a hollow base having an open top; a removable, transparent dome covering the open top of the base; a pair of trays mounted side by side in said base, one of said trays containing food liquid and one of said trays containing food particulate; a slidable and

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rotatable outer tube within said base extending vertically upward passing between said trays and out through an opening in said dome, said outer tube being slidable between a resting position and a lowered position; a grate extending from and mounted on one side of said outer tube within said dome, said grate being located in the resting position of said outer tube above said trays; means for rotating axially said outer tube between a first position where said grate is above one of said trays and a second position where said grate is above a second of said trays; means on said grate to support a solid food product to be breaded with a mixture of said food liquid and said food particulate; means for depressing and retracting said outer tube causing said grate with solid food product mounted thereon to dip said solid food product into one of said trays for being coated with said food liquid or food particulate, said outer tube being rotated to place said grate above the other of said trays allowing said grate to be lowered into the other of said trays for coating the food product with the other food liquid or food particulate; and means movable within said outer tube to rotate said grate 180 degrees to allow another side of said food product to be coated in turn by said food liquid and said food particulate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose the state of the art with respect to a cleaning apparatus

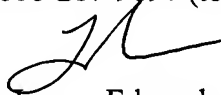
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including plural treatment tanks and a lowering basket: Lanzetter (US 2,871,867). The following patent discloses the state of the art with respect to a coating apparatus with a single tank and lowering basket: Hubers (US 4,196,231).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura Edwards
Primary Examiner
Art Unit 1734

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October 31, 2005